

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:07cr19**

**UNITED STATES OF AMERICA,**

**Vs.**

**TOMAS ALEGRIA FACUNDO,**

**Defendant.**

---

)  
)  
)  
)  
)  
)  
)

**ORDER**

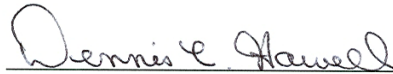
THIS CAUSE came on to be heard before the undersigned on May 7, 2007 for the purpose of conducting a Rule 11 proceeding. During the Rule 11 proceedings, the defendant advised the court that he was 16 years of age. The defendant presented, through his counsel, a birth certificate showing that he was 16 years of age which creates in the mind of this court an issue as to whether or not the defendant is actually 16 years of age and thus prosecution should occur by way of juvenile proceedings. The undersigned heard the contentions of the Government after which the defendant desired to then contend that he was over the age of 16 years and was, in fact, well over the age of 16 years. As a result of these factual discrepancies, the undersigned has determined to enter an order terminating the Rule 11 proceeding and after consultation with the office of the District Court has been given authority to issue an order continuing this matter from the May 7, 2007 term of the District Court. This continuance should give the Government and the defendant sufficient time to ascertain the true and correct age and date of birth of the defendant.

**ORDER**

IT IS, THEREFORE, **ORDERED** that the Rule 11 proceeding in this matter is hereby

suspended and **CONTINUED** and that the trial in this matter is continued from the May 7, 2007 term of the District Court to the July term of the District Court. This order of continuance is entered after consultation with the District Court and with the District Court's permission and direction.

Signed: May 14, 2007

\_\_\_\_\_

Dennis L. Howell  
United States Magistrate Judge

